



OFFICE OF THE CITY CLERK

REPORT

DATE: NOVEMBER 6, 1998

REPORT NO: 98-10

SUBJECT: PROPOSED AMENDMENTS TO THE SAN DIEGO MUNICIPAL
LOBBYING ORDINANCE

ISSUE

The Municipal Lobbying Ordinance was adopted by the City Council on May 18, 1998, after significant public input and review by the Rules Committee. The new ordinance replaced the City's former "Municipal Advocates" ordinance which had been in effect since 1973. The new lobbying ordinance is designed to regulate "professional" lobbyists in the City of San Diego. On July 15, 1998, a group of attorneys representing several local law firms asked for an interpretation of the ordinance. That was provided by the City Attorney in a Memorandum of Law to the City Clerk dated September 17, 1998 (attached). Because of the interpretation of certain terms in the lobbying ordinance, the Clerk has become aware of the need to revise it in order to clarify its original intent. Some housekeeping amendments are also proposed.

RECOMMENDATION

Adopt the amendments to the lobbying ordinance as proposed. The Council may also wish to provide direction to increase the compensation threshold because of concern expressed by some Council members that the existing threshold is too low.

DISCUSSION

Sections 27.4001 through 27.4028 of the Municipal Code govern municipal lobbying activity. A recent legal opinion interpreting the ordinance allows that a law firm may register as a lobbyist. This is based on the overly broad language in Section 27.4007(d), allowing "persons" to register as lobbyists before qualifying as such. This

language is in conflict with the intent of the ordinance and with the definition of a lobbyist as an individual, which is included in the ordinance. Because of this interpretation, there is the need to amend the ordinance to clarify that only individuals may register as lobbyists. In addition, there are several housekeeping amendments. One would exclude communication among attorneys, representing a party or potential party to pending or actual litigation, from the definition of municipal decision and, thus, put this outside the definition of lobbying. Another would move the record-keeping requirements for lobbyists to a separate section to make them more prominent. Some minor changes have been included for clarification and consistency.

Specifically, the proposed changes are as follows:

- a. In sections 27.4001, 27.4007, 27.4013, 27.4022, 27.4023, 27.4024, 27.4025, 27.4026, and 27.4028, the word "Person" has been changed to "individual" in order to clarify that only individuals are lobbyists and only individuals may register as such under the ordinance. There are other instances in the ordinance where the word "Person" has not been changed because it accurately reflects a broader definition.
- b. The definition of "Lobbyist" has been expanded to more clearly encompass individuals employed by a firm to provide lobbying services. The definition has also been amended to clarify that there must be at least one instance of direct communication with a city official in order for the individual to qualify as a lobbyist.
- c. Section 27.4017(d) ("Contents of Lobbyist's Quarterly Disclosure Report") has been revised to clarify the reporting of compensation by lobbyists employed by an entity that provides lobbying services by contract with clients.
- d. As a housekeeping amendment, a new section (c) has been added to the list of items excluded from the definition of municipal decision. This section covers communication among attorneys representing a party or potential party to pending or actual litigation either brought by or against the City, or City agent, officer or employee. This will appropriately exclude these legal communications from the definition of what constitutes a municipal decision and, thus, from what may otherwise constitute lobbying activity.
- e. As a housekeeping amendment, record-keeping requirements for lobbyists are now set out as a separate Section 27.4018 ("Accountability"). These requirements had been included in the list of items under Section 27.4023 ("Other Obligations of a Lobbyist").

COMPENSATION THRESHOLD

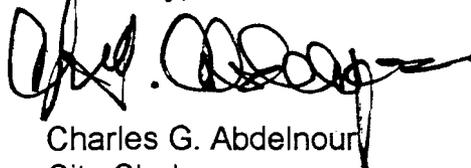
Recently there has been some concern expressed that the \$1,000 compensation per quarter is too low, and because of this, individuals representing nonprofit organizations are being regulated by the ordinance, although they do not appear to be the "professional" lobbyists the ordinance was designed to include. Because of this concern, the Council may wish to direct that the threshold be increased. By way of comparison, at the state level there is a \$2,000 per quarter threshold. Los Angeles has a threshold of \$4,000 per quarter and San Francisco has a threshold of \$3,000 per quarter. Should the Council wish to increase the threshold, we would suggest that it be raised to \$2,000 per quarter. This would double the current threshold.

SUMMARY

In summary, the City Clerk proposes these amendments in order to clarify certain provisions of the lobbying ordinance. These amendments include the clarification that only individuals may register as lobbyists. Housekeeping amendments include excluding certain communication among attorneys from the definition of municipal decision, and setting out the record-keeping requirements of lobbyists as a separate section in the ordinance.

I look forward to your consideration of these amendments, and, as always, should you have any questions or comments, I would be pleased to respond.

Sincerely,



Charles G. Abdelnour
City Clerk

CGA:JL

cc: City Attorney
City Manager
Assistant City Manager